

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 924 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No.

MUKESHBHAI MAGANLAL PATEL

Versus

DIRECTOR

Appearance:

MR HC RAVAL for the Petitioner.

MR PS PATEL FOR MR HM BHAGAT for Respondents Nos.

1 to 3.

Respondent No.4 served.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 19/11/98

ORAL JUDGEMENT

Draft Amendment granted.

Rule., Mr. P.S.Patel, learned Advocate waives service of the Rule on behalf of respondents Nos. 1 to 3. Respondent No.4 though served, no appearance is filed. At the request of the learned Advocates for the parties, this petition is taken up for final hearing

to-day.

The Director of Geology and Mining-respondent No.1 herein on 29-8-92 granted permission to the petitioner for a period of five years for removal of waste dumps of manganese ore from village Pani Mines, Taluka Jetpur Pavi in S.No. 75 for an area of Acres 75-29 Gunthas. Respondent No.1 however by his order dated 22-2-94 cancelled the said permit. Since the said order cancelling the permit was passed without affording an opportunity of hearing to the petitioner, the petitioner filed Special Civil Application No. 5215/94 which was allowed by this Court on 25-5-94 and the said order was quashed and set aside and respondent No.1 was directed to hear the petitioner afresh and pass appropriate orders within six weeks from the date of the order. Accordingly the petitioner vide his letter dated 13-6-94 addressed to respondent No.1 produced necessary material as per the order passed by this Court . The petitioner also on 21-8-96 requested to renew the permit for a further period of one year as the permit granted in 1992 was to expire on 29-8-97. It appears that thereafter certain correspondence ensued between the parties. However, respondent No.1 ultimately on 2-4-1997 has taken a decision in the matter in pursuance of the direction given by this Court vide its order dated 25-5-94 and has set aside his own earlier order dated 22-4-94. However, curiously enough he continued the lease period with effect from 29-8-92 for the remaining period on the same terms and conditions of the earlier permit. This order has been challenged by the petitioner in this petition.

Having heard the learned Advocates at length , in my opinion, the petition is required to be allowed only on the ground that respondent No.1 has continued the permit with effect from 29-8-92 without considering the fact that the matter has remained pending for all this period from 22-2-94 when the first order cancelling the permit was passed inspite of the specific direction given by this Court to decide the matter afresh and to pass appropriate order within six weeks and admittedly no order was passed even though the petitioner communicated the decision of this Court with necessary material by his letter dated 13-6-94. It is true that certain correspondence ensued between the parties. However, the fact remains that no order was passed. In any case when respondent No.1 has decided that the earlier order dated 22-2-94 cancelling the permit was not proper, the petitioner is entitled to the continuance of the permit, excluding the periode spent in litigation and/or correspondence.If the order passed by respondent No.1 is

allowed to be continued, in that event the petitioner will have hardly any time to carry out the mining operations. In any case, the petitioner is entitled for atleast that much period which was spent from 22-2-94 till 2-4-97 when the impugned order was passed.

In the result, the petition is partly allowed. Respondent No.1 is directed to pass order afresh granting permission to the petitioner in light of the observations made hereinabove within a period of one week from the date of receipt of this order. Rule is made absolute to the aforesaid extent with no order as to costs.
D.S.permitted.

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